

**IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
(RICHMOND)**

IN RE: TAWANDA FOWLER
DEBTOR(S)

CASE NO: 19-36381

LENDMARK FINANCIAL SERVICES
PLAINTIFF,

CHAPTER 13

-v-

ROGER O. FOWLER
CO-DEBTOR/RESPONDENT

SUZANNE WADE
TRUSTEE,

**NOTICE OF MOTION FOR RELIEF FROM THE CO-DEBTOR STAY
PURSUANT TO 11 U.S.C. §1301 § (c)(2)**

Lendmark Financial Services, a creditor in this case, has filed papers with the Court to obtain relief from the automatic stay of the Bankruptcy Code with regard to certain property more particularly described in those papers which are attached.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the Court to grant this creditor's relief from the provisions of the automatic stay of the Bankruptcy Code, or if you want the Court to consider your views on the Motion for Relief from the Co-debtor stay, then on or before, **March 11, 2020**, you or your attorney must:

File with the Court, at the address shown below, a written response pursuant to Local Bankruptcy Rules 4001(a)-1(H)(2) and 9013-1(H). If you mail your response to the Court for filing, you must mail it early enough so the court will **receive** it on or before the date stated above.

U.S. Bankruptcy Court
701 E. Broad Street, RM 5100
Richmond, VA 23219

You must also mail a copy of any such response to:

**ROBERT B. HILL, ESQUIRE
HILL & RAINY, ATTORNEYS
2425 BOULEVARD, SUITE 9
COLONIAL HEIGHTS, VA 23834**

Attend the preliminary hearing that will be conducted in the U.S. Bankruptcy Court, 701 E. Broad Street, RM 5000, Richmond, VA 23219 on April 1, 2020 at 11:00 a.m.

If no timely response has been filed opposing the relief requested, the Courts may grant the relief sought in the Motion for Relief from the Co-Debtor Stay.

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the Motion for Relief from the Co-Debtor Stay and may enter and Order granting the relief.

Date: February 25, 2020

/s/Robert B. Hill
Robert B. Hill, VSB#18751
Hill & Rainey, Attorneys
2425 Boulevard, Suite 9
Colonial Heights, VA 23834

CERTIFICATE OF SERVICE

I hereby certify that on February 25, 2020, a true copy of the foregoing Motion for Relief from the Co-Debtor Stay was submitted for electronic transmittal or mailed, first-class, postage prepaid to:

Tawanda Fowler
5465 Brandon Bluff Way
Richmond, VA 23223

Roger O. Fowler
5465 Brandon Bluff Way
Richmond, VA 23223

Joseph S. Massie, III, Esquire
The Massie Law Firm, P.C.
115 N. 1st Street
Richmond, VA 23219

Suzanne E. Wade
Chapter 13 Bankruptcy Trustee
P.O. Box 1780
Richmond, VA 23218

/s/Robert B. Hill
Robert B. Hill, VSB#18751
Hill & Rainey, Attorneys
2425 Boulevard, Suite 9
Colonial Heights, VA 23834

**IN THE UNITED STATES BANKRUPTCY COURT
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IN RE: TAWANDA FOWLER
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LENDMARK FINANCIAL SERVICES
PLAINTIFF,

CHAPTER 13

-v-

ROGER O. FOWLER
CO-DEBTOR/RESPONDENT

SUZANNE WADE
TRUSTEE,

**MOTION FOR RELIEF FROM THE CO-DEBTOR STAY PURSUANT TO 11 USC §
1301 (C)(2)**

TO ALL DEFENDANTS:

Pursuant to Rule 4001 (a)-1(H) of the Local Rules of the Unites States Bankruptcy Court of the Eastern District of Virginia, you have twenty (21) days from February 25, 2020, the date of service of the Motion upon you, to file a written response thereto and you must file such response with the Clerk of the Unites States Bankruptcy Court, U.S. Bankruptcy Court, 701 E. Broad Street, RM 5000, Richmond, VA 23219, and serve a copy of same upon the Plaintiff's attorney, Robert B. Hill, at 2425 Boulevard, Suite 9, Colonial Heights, VA 23834.

Robert B. Hill, VSB#18751
Hill & Rainey, Attorneys
2425 Boulevard, Suite 9
Colonial Heights, VA 23834
(804) 526-8300
Attorney for Lemark Financial Services

TO THE HONORABLE KEVIN R. HUENNEKENS:

Your Plaintiff, Lemark Financial Services, respectfully represents as follows:

1. This Court has jurisdiction over this proceeding pursuant to 28 U.S.C. § 157 and 1334 and that this matter is a core proceeding.
2. That the Debtor filed a voluntary petition under Chapter 13 on December 6, 2019. That the chapter 13 plan has not been confirmed.
3. That Debtor, Tawanda Fowler together with Roger O. Fowler, Co-Debtor, signed a Combination Statement of Transaction, Promissory Note and Security Agreement with Lemark Financial Service in the amount of \$6,251.31. Plaintiff holds a Combination Statement of Transaction, Promissory Note & Security Agreement. (See attached Combination Statement of Transaction Promissory Note & Security Agreement).
4. That the balance of the loan at the time of Debtor's bankruptcy filing was \$6,923.61. Roger O. Fowler is a Co-Debtor with respect to the debt and security interest.
5. That Debtor, Tawanda Fowler filed Chapter 13 bankruptcy. Debtor's Chapter 13 plan does not list Lemark Financial Services.
6. Lemark Financial Services has not received a payment on the account since May 3, 2019.
7. Cause exists for relief from the Co-Debtor stay pursuant to 11 USC § 1301 (C)(2)(3). Continuation of the stay places Plaintiff's interest at risk of irreparable harm.

WHEREFORE, Plaintiff prays the Court as follows:

1. Terminate the Co-Debtor stay of 11 U.S.C. § 1301 to permit Plaintiff to take legal actions against the Co-Debtor to the extent that it's claim is not being paid at 100% under the Debtor's chapter 13 plan.
2. Grant Plaintiff such other and further relief as the Court deems just and proper.

This, 25th day of February 2020

Lemark Financial Services,

By: /s/Robert B. Hill
Of Counsel

CERTIFICATE OF SERVICE

I hereby certify that on February 25, 2020, a true copy of the foregoing Motion for Relief from the Co-Debtor Stay was submitted for electronic transmittal or mailed, first-class, postage prepaid to:

Tawanda Fowler
5465 Brandon Bluff Way
Richmond, VA 23223

Roger O. Fowler
5465 Brandon Bluff Way
Richmond, VA 23223

Joseph S. Massie, III, Esquire
The Massie Law Firm, P.C.
115 N. 1st Street
Richmond, VA 23219

Suzanne E. Wade
Chapter 13 Bankruptcy Trustee
P.O. Box 1780
Richmond, VA 23218

/s/Robert B. Hill
Robert B. Hill, VSB#18751
Hill & Rainey, Attorneys
2425 Boulevard, Suite 9
Colonial Heights, VA 23834

ADDITIONAL TERMS AND CONDITIONS

I promise and agree that:

1. I am the owner of the Property and, if there is a certificate of title to the Property, I will promptly deliver the certificate to you at your request.
2. You may inspect the Property at any reasonable time. Upon your request, I will show you the Property or I will furnish to you a written statement showing the location of the Property.
3. I will not sell, lease or otherwise dispose of the Property without your prior written consent.
4. I will keep the Property in this state, unless the Property is a motor vehicle, in which case I will only use it outside this state in the course of my normal use of the Property. I will not use the Property in violation of any law or in any manner inconsistent with any insurance policy.
5. I will pay all taxes, assessments and other fees payable on the Property when they are due and payable.
6. I will sign all financing statements, continuation statements and security interest filing statements with respect to the Property and will pay all taxes and costs for filing the statements when requested by you. I authorize you to file financing statements with respect to the Property without my signature.
7. There are no security interests on the Property other than yours and those which I have advised you about in writing. I will not permit any security interest other than yours to be on the Property at any time without your prior written consent.
8. I will keep the Property in good condition and repair and I will not permit anything to be done to the Property which would impair its value.
9. I will keep the Property insured for the lesser of its full value or the amount of the loan against loss or damage. I may buy property insurance through anyone I choose. My insurance policies must say that the insurance is payable to you to the extent of what I owe you under this note. All insurance proceeds shall be payable to you to the extent of the money I owe to you. I will deliver to you the insurance policies or certificates of insurance. I assign to you any returned or unearned insurance premiums which may be due upon the cancellation of such insurance policies. I direct any insurance companies to pay to you all insurance proceeds and returned or unearned premiums. All insurance proceeds and returned or unearned premiums received by you will be applied against the amount I owe to you and any balance remaining will be paid to me. If I do not maintain required insurance, you may, but are not required, to purchase insurance to protect your interest only in the Property and I agree to pay the cost of the premiums. My payment of the amounts so advanced by you shall be secured hereby. I understand that if the Property is a motor vehicle and I purchase vehicle single interest insurance that it does not insure my interest in the motor vehicle, and that you will accept more comprehensive insurance in its place.
10. If I default in paying any required amount or complying with other terms or conditions, you have the rights and remedies given to a secured party under Virginia law including the right to repossess the Property without judicial process, if this can be done without breach of the peace. If the law requires you to give me notice if you are going to sell the Property, 10 days prior notice of such sale will be reasonable notice to me. Such notice may be given by you to me at my address last shown on your records. You may require me to assemble and make the Property available to you at any place which is convenient to both of us.
11. You can waive or delay enforcing any of your rights without losing them. You can waive or delay enforcing a right against one of us (if more than one borrower signs this note) without losing it as to the other. You can release one of us (if more than one borrower signs this note) without releasing the other and I consent to the extensions of time without notice. You don't have to give me notices such as demand or presentment.
12. Virginia law and federal law, as applicable, govern this note and agreement. If any part is unenforceable, this will not make any other part unenforceable. In no event shall I be required to pay any greater charges or interest than are allowed by law.
13. Nothing contained herein, which constitutes a waiver of a right to legal recourse under any otherwise applicable provision of State or Federal law, shall apply to an individual who is a 'Covered Borrower' as defined by the Department of Defense's Regulation (32 C.F.R. §232) implementing the Military Lending Act (10 U.S.C. §987) on the date of this loan agreement.
14. I WAIVE THE BENEFIT OF MY HOMESTEAD EXEMPTION AS TO THIS OBLIGATION.

The following Notice applies only if the proceeds of this loan have been applied in whole or substantial part to the purchase of goods and/or services from a person who, in the ordinary course of this business sells such goods and/or services to consumers and borrower has been referred to the Lender by the Seller, or Lender is affiliated with the Seller by common control, contract, or business arrangement.

NOTICE: ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE BORROWER COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED WITH THE PROCEEDS HEREOF, RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER.